SMOKING AND HEALTH IN THE USA AND CANADA
REPORT NO. 1, 1992

I. USA

1. INDUSTRY

The trade deficit of the USA in 1991 was $66.2 b, a 35% drop from 1990. This will stay much the same in 1993, because exports are likely to grow. Of interest, there was an excess of exports over imports to the EEC, valued at $6.3 b. Agricultural products at $38.5 b were the number one export. (USA Today, February 21). Tobacco leaf and products continue to be the second leading contributor to the US Agricultural Trade Balance, behind grains and feeds.

The US Tobacco industry had a trade surplus of $4.8 b. Manufactured exports were $4.6 b less 0.2 b imports and unmanufactured leaf exports were $1.4 b less $1 b imports. These figures were lower than 1990 because there was a large increase of Canadian cigarette imports and unmanufactured leaf imports. However, the surplus was still the second highest on record.

Cigarette volume in the USA was down 2.4% in 1991. Domestic volume was 509.1 b and exports 192.7 b, or a total of 701.8 b units. Exports (+21.7 b) increased 12.7% over 1990 and compensated for the domestic loss (-12.5 b). How long this will last is unknown, but overall volume for 1992 is anticipated to be similar to 1991. Domestic cigarette consumption in 1992 will probably drop 2-3%.

Fourth Quarter Reports

PM 4Q fell 12.8% because of charges related to an accounting change and the costs of revamping its worldwide food operations. Excluding the charges, the tobacco and food company quarterly profits jumped 21% (WSJ, January 30 (S)). They are moving ahead with an overseas expansion programme earmarking $3.5 billion for foreign operations over the next five years as part of a $9 billion overall capital spending budget (Washington Post, February 21 (S)). They are predicting a year of strong overall earnings in 1992.

RJR Nabisco was profitable in 4Q and for all of 1991. The profit for 1992 was $195 m compared with a loss of $479 m in 1990. "The RJR buyout has been a smashing financial success" (Forbes, January 13 (S)). KKR have sold $6 b of assets and $7 b of new stock and have brought down the debt from $29 b to $14 b in three years. As a result, they were honored in the 10th

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Annual Corporate Reputations Survey (Fortune, February 10), as the most improved company of 1991. Nevertheless, as has been stated before, they have not been as successful as they should have been in the marketing of tobacco products. They are obviously attempting to do something about this. RJR have agreed to settle a $72.5 m shareholders' suit which claimed that the company did not disclose that a buyout was being considered, until management made its first offer in October 1988 (N&O, February 27 (S)).

American Brands stated that operating profit increased 11% in 4Q buoyed by strong sales of its discount cigarette brands. Net income for the year was up 35%, a record. Loews (Lorillard) equally reported 4Q net income increases, double the level of 1990.

US tobacco net earnings were 19% over 1990 marking the 31st consecutive year growth for the company. Moist, smokeless products accounted for most of the increase in its tobacco segment.

Results from leaf dealers Universal, Dibrell, and Standard Commercial also improved during the fourth quarter period of 1990. Their stock prices have increased considerably over the year (Tobacco Quarterly, December 1991). Indeed Wilson, North Carolina ranked third in the USA as a headquarters community for companies with the highest 1991 growth in stock prices for Standard Commercial and Branch Bank and Trust Company!!!! (Fortune, February 24).

Despite being on the regulator's hit list, food, drink and tobacco companies are out-earning other businesses and stockholders are getting returns on their investments almost twice the median for all industries (Forbes, January 6 (S)). "While smoking has been on the decline for years, cigarettes are so cheap to make that the margins are unbeatable. PM still gets around two-thirds of its profits from tobacco. Brand loyalty remains so powerful that the two top players, PM and RJR Nabisco, raised prices, not twice, as is customary, but three times last year." PM has become the third most valued company on the NY Stock Exchange trailing Exxon and Merck.

Brand Market Share - 1991

Volume and share declined in full price brands throughout the industry. Price-value brands have skyrocketed, both in volume, up 27%, and share, up to 25.0% against 19.2% in 1990. Maxwell anticipates a figure of 30% in the next few years (Maxwell Consumer Report, 1991, February 10 (S)).

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COMPANY VOLUME AND MARKET SHARE

	VOLUME			MARKET SHARE		
	1990	1991	% Change	1990	1991	Share Change
Phillip Morris	220.52	220.71	0.1	42.3	43.4	1.1
RJR Nabisco	154.49	141.73	(8.3)	29.6	27.8	(1.8)
Brown and Williamson	53.73	56.58	5.3	10.3	10.3	0.8
Lorillard	39.72	36.94	(7.0)	7.6	7.3	(0.3)
American Brands	35.54	35.80	0.7	6.8	7.0	0.2
Liggett	17.60	17.34	(1.5)	3.4	3.4	0.0
	521.60	509.10	(2.4)	100.0	100.0	

PRICE VALUE CATEGORY SHARES BY TYPE

	Share of Market			Share of P/V Category		
	1990	1991	Share Change	1990	1991	Share Change
Branded Generics	10.4	10.7	0.3	54.3	42.7	(11.6)
Black and White (Private Label)	3.6	6.5	2.9	18.7	26.2	7.5
Sub-Generics	3.5	6.8	3.3	18.3	27.1	8.8
Value 25's	0.7	0.5	(0.2)	3.6	2.0	(1.6)
Price Off	1.0	0.5	(0.5)	5.1	2.0	(3.1)
TOTAL	19.2	25.0	5.8	100.0	100.0	

Marlboro continues to be the top brand (26.0%) and was helped by the introduction of Marlboro Medium.

As stated, the price-value category continued its momentum. Branded generics grew to 10.7% of the market, while Black and Whites were up to 6.5% and sub-generics 6.8%.

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Branded generics are still dominant in the P/V Category. "Bristol and Bucks, Cambridge, Alpine and Players Light" constituted PM's 44.4% increased contribution for the year. The decline in RJR overall share was due to a 14.6% decline in its full price lines, with only a 17.1% increase in their branded generics "Doral, Magna, Sterling and Century". The branded generics of B&W "Raleigh Extra" and American "Montclair and Misty Slims" did well. Lorillard have generally concentrated on full price brands but have introduced P/V "Style" aimed at price-conscious women in 1992 (samples to SWP).

Tobacco analyst, Roy Burry, expects prices of price/value brands to come closer to full priced brands in 1992, but also considers that manufacturers will introduce a "sub-subgeneric" segment, retailing for lower than subgenerics.

96.3% of cigarettes in 1991 were filtered (plain 69.5%, mentholated 25.8%, charcoal 1.0%). Low tar cigarettes (below 15 mgm) have slowly increased in percent of market from 54.7% in 1986 to 58.8% in 1991 (7-15 mgm 46.7%, 0-6 mgm 12.1%).

Obviously all companies are attempting to gain market share, notably RJR Nabisco (AdAge, February 3 (S)). The latter has developed, as previously reported (S&H Report No. 4, 1991) a new packaging concept, "Flavor Seal", for "Winston" and now for "Salem" (NY Times, December 19 (S)). They are marketing "Camel Wides" with a larger than average circumference, targeting "machomen" with more substantial flavor and size (samples to SWP). PM have started to market "Merit Ultima" to compete with the lowest tar and nicotine segment brands. "Carlton and Now" (AdAge, January 20 (S)) (samples sent to SWP). They are also selling "Collector's Choice" cigarettes in airports, hotel gift shops and specialty shops. The Skyline series of five packs are called New Yorker, Park Avenue, Plaza, Broadway and Fairmont. The Americana series consists of Arizona, California, Freeport, Long Beach and Monterey. PM are also marketing "Virginia Slims Super Slims" (samples to SWP) which emits less smoke from the lit-end than conventional cigarettes.

There is no news about the future of PM denicotinized cigarettes, but I did gather from an RJR member, that research continues on a smaller scale (perhaps six people) with improved flavor alterations to "Premier". Indeed he was smoking one of them.

It is particularly noted in this AdAge, February 3 article that line extensions seem to be the way to go.

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It costs only $30-50 million to launch a line extension compared with $200-300 million for a free standing brand.

To add insult to injury, a manufacturer, Southwood, in California is expanding test markets for his "Death" cigarette to all cities in California and Oregon together with the United Kingdom. The cigarettes are made in the Netherlands from a blend of foreign tobaccos. Anti-smoking groups are not sure what to say, but the aim is to discourage people from smoking (JAMA, January 8 (S)).

Exports

Cigarette exports continue to grow with PM, RJR, and B&W. All three are increasing manufacturing facilities or increasing shifts. First Boston predicts a 5-8% annual growth rate in international shipments of American cigarettes.

A Price Waterhouse study on the US Tobacco Industry shows that three regions, the Pacific Rim, EEC, and Middle East are the principal areas that account for the majority of net growth.

	1990 Billion Units	1991 Billion Units	% Change
PM	99.50	108.60	9.1
RJR Nabisco	36.00	49.00	36.1
B&W	34.20	33.90	(0.9)
American	1.30	1.20	(7.7)
	171.00	192.70	12.7

The US Trade Representative continues to battle anti-smoking rules in Taiwan, sparking a showdown with health advocates, both there and in the USA. Even anti-smoking protest ads have appeared in the New York Times and WSJ (January 21/22). USTR officials maintain that they are confident that their efforts rest on sound trade-policy grounds and that they could withstand any legal challenge in GATT (Legal Times, February 3). Of interest is the fact that PM has agreed to put warning labels on previously unlabeled cigarette packs sent to such places as Thailand, Phillipines, Dominican Republic, Morocco, Yugoslavia (WSJ, February 6 (S)).

The US International Trade Commission reported on February 19th, that during a 4 year span, 1986-1990,

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the US has become the leading cigarette exporting country in the world and credited the USTR for its successful efforts to liberalize trade opportunities in the Pacific Rim. But the Cigarette Export Reform Act of 1991, HR 2781, and the Cigarette Export Labelling Act of 1991 HR 2779 would prohibit US funds to promote such sales, to reduce advertising restrictions in these countries, and require cigarette labelling. No action has been taken on these bills.

On February 11, Rep. D. Amey (R. Texas) introduced legislation to abolish the USDA Market Promotion Programme for food and farm products overseas ($200 m in FY 1991, of which tobacco $3.5 m). On February 25th, USDA Assistant Secretary Crowder assured the House Agricultural Committee that $80 m had been placed in the budget of FY 1992 for this purpose and this could be increased if the GATT agreement was not reached. On February 20, Rep. Coleman introduced HR 4279 to provide for expansion of agricultural trade.

As discussed in an article "Pioneering the 'New Europe'", Tobacco Reporter, February 1992, PM is pushing ahead in Europe. In addition to exporting cigarettes to Russia, they have reached joint venture agreements with two Russian companies to produce "Marlboro" and have joined with Austria Tabakwerke to buy Eger Cigarette factor in Hungary. They are manufacturing cigarettes in Dresden, East Germany with excellent success in sales (WSJ, February 12 (S)). They are contemplating a licensing agreement in Poland.

Equally RJR continues to export cigarettes to Russia and has an agreement to produce "Camels" in Kazakhstan. They have announced plans to built production facilities in Warsaw, Poland to begin production mid-1993 (WSJ, February 6) and in Izmir, Turkey for late 1993 (N&O, January 7).

Advertising

Total ad spending for cigarettes and tobacco was reduced from $675 m in 1989 to 485.2 in 1990. Emphasis was placed in 1990 on magazines $311.3 m, Sunday magazines and newspapers $82.5 m and outdoors $182.6 m (AdAge, January 6). PM has previously stated that outdoor advertising is for broad awareness, magazines and newspapers for targeting specific brands. With price competition being so great, increased promotion has become more important (AdAge, November 19, 1991 (S)).

Magazine ad pages in 1991 suffered their steepest decline in 30 years and publishers say that there are

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no signs of recovery on the horizon. 40 magazines have closed publication since the ad decline began in late 1989 (AdAge, January 20).

A survey of advertising of the Top 200 Brands of all products showed a major decline in the third quarter of 1991, indicating that such brands are no longer a safe haven for the nation's media. PM while leading all advertisers in media expenditures for the three quarters, was down 4.4%. Marlboro continued to be well supported (AdAge, February 10).

K.E. Warner et al in "Cigarette advertising and magazine coverage of the hazards of smoking", NEJM, January 30, showed that "magazines that depend on revenues from cigarette advertising are less likely to publish articles on the dangers of smoking for fear of offending cigarettes manufacturers. Special concern has focused on magazines directed to women". This article was reviewed in a number of newspapers including WSJ, January 30 (S). Nevertheless, the industry, while utilizing such media advertising, are increasingly turning away from the educated, upscale readers that so many magazines court, and targeting their efforts on lower-income women and minorities.

However, the principal attack in the past quarter on cigarette advertising has been related to youth advertising, with particular reference to "Camel" cigarettes. It is obvious that advertisers are trying to understand the child consumer and to use them for increased sales, perhaps also through their parents (AdAge, February 10).

The American Medical Association started the ball rolling in a range of articles in JAMA, December 11, 1991 (S).

-Does tobacco advertising target young people to start smoking - J.P. Pierce et al

-RJR Nabisco's Cartoon Camel promotes Camel to children J.R. DeFraza et al

-Brand Logo recognition by children ages 3-6 years (Mickey Mouse and Old Joe the Camel) - P.M. Fischer et al

Rep. Waxman (D. California) who is adamantly opposed to tobacco wrote an editorial in the same issue, which together with others, wished to reduce access of cigarettes to children. L.A. Jason et al reviewed "Active Enforcement of Cigarette Control Laws in the prevention of cigarette sales to minors". Numerous

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editorials on the same subject resulted in the Boston Globe, AdAge, New York Times, WSJ, and many other newspapers.

Needless to say, RJR launched an aggressive public relations campaign to counter charges that its cartoon mascot encourages children to begin smoking. It has criticized the JAMA article markedly and sent rebuttals to reporters at over 100 newspapers. RJR may continue the fight since Camel's share among smokers 18-24 has risen 4.4% - 7.9% during the past three years (WSJ, February 5). They placed an advertisement in the Boston Globe on January 7 (S) stating that "smoking should not be a part of growing up". Their anti-smoking campaign targeted to teenage children will be expanded. The Surgeon General requested removal of the Old Joe ad on March 9, but this was rejected by RJR.

As has been stated previously in S&H Reports, the TI has been particularly active in encouraging young children not to smoke (cf It's the Law). Recently they have produced 30 +60 second TV ads that urge children not to smoke. This is coupled with a booklet "Tobacco: helping youth say no". A Family COURSE Consortium are distributing the ads to television stations around the nation urging that they are run as public service announcements. PM are working with this consortium to inundate New York subway cars with signs containing the message that minors should not smoke cigarettes (US Distribution Journal, February 15).

In another similar context, a recent study by J.D. Klein in Pediatrics showed that sweets and gum made to look like cigarettes were twice as likely to encourage children to try the real thing (N&O, January 6).

The bottom line of the AMA December attack was to use the supposed logo promotions of companies smoking by children as a further effort to have cigarette advertising fully banned in the USA. The Coalition on Smoking and Health called on the FTC to ban RJR from using the Joe Camel logo. The AMA urged all physicians for a ban on tobacco advertising and encouraged them to take an active step in smoking cessation efforts. We shall have to wait and see what occurs with the present bills in Congress. In this regard, perhaps, the anti-stance in a number of EEC countries does not help, but the pro-advertising stance in Canada is welcome.

Sponsorship of events by the tobacco industry continues to cause problems - an art exhibition at a UCLA Gallery in Los Angeles by PM (Los Angeles Times, December 6, 1991). PM wished to have the "Marlboro Grand Prix" run in NY City, but this was not accepted and has been

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delayed until June 1993. Interestingly cigarette use is becoming more common in films, but its symbol instead of glamour as in the past, tends to imply trouble and rebellion (LA Times, January 4).

Cigars

Annual cigar consumption in the US was 2.34 b in 1990, down 5.5% from 1989. This is expected to drop in 1991 too. Sales reached $705 million. Premium cigars gained market share to 54.3%, but this figure is predicted to drop 2-4% in 1991. Very expensive cigars have gained share, because of their quality. People do not smoke as much, but when they do, they smoke the best. Cigars with natural leaf wrappers are performing well. They are predicted to increase in 1991. Nevertheless, cigar smoking has dropped steadily since 1970 and is expected to continue downward during the 1990's (USDA Tobacco Situation and Outlook Yearbook, December 1991).

1991 Market share for large cigars was Swisher International 49%, Havatampa/Phillies 19%, Consolidated Cigar 17%, General Cigar 8%. For little cigars, Swisher International 41%, Tobacco Exporters International 28%, Consolidated Cigar 26% (US Distribution Journal, January 15 (S)).

Smokeless Tobaccos

There was a good review of smokeless tobaccos in Tobacco International, January 15 (S). Moist snuff sales of 44 million pounds were up 6% in 1990, with forecasts of a further 4% increase in 1991. This could be due to consumers' substituting snuff for smoking as the number of restrictions on smoking grows; stable employment in industries where workers typically use smokeless tobacco; effective industry promotion; and perhaps the waning of the impact of warning labels, tax hikes, and anti-smokeless tobacco use generally. Indeed, teen use of chewing tobacco, snuff and other smokeless tobaccos appears to have increased markedly in West Virginia, which ranks first in such use, in a 1988 federal survey of 36 states and the District of Columbia (LA Times, February 16 (S)).

US tobacco continues to lead the moist snuff segment with 85-86% of market share (Copenhagen 48%, Skoal 37%, Skoal Bandits 2.5% of products). Basically moist snuff is the basis of growth in the total smokeless tobacco industry (US Distribution Journal, December 1991 (S)). Chewing tobaccos (plug, twist, looseleaf) sold 72.9 million pounds in 1990 and are predicted to drop 2% in 1991. Such tobacco sales have dropped steadily during

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the past 10 years. Pinkerton (45%) and Conwood (29%) are the market leaders in looseleaf which represents 88% of the chewing tobaccos sold by weight. Pinkerton Red Man (29%) and Conwood Levi Garrett (24%) are the leaders in the looseleaf products.

2. TOBACCO PROGRAMME

World tobacco production for 1991 is projected at 7 m tons (farm sales weight). Production increases are projected in Zimbabwe, Argentina, Canada, Mexico and Malawi. Flue cured production is predicted at 4 million tons (World Tobacco Situation, USDA, December 1991).

Verner Grise, USDA, in his annual statement considers that the outlook for US grown tobacco in the early 1990's is bright and has changed significantly from that of the mid-1980's. Surplus stocks have been depleted. leaf production is up, and cigarette production has increased because of phenomenal growth in exports.

The Flue-Cured Tobacco Cooperative Stabilization Corporation has an annual series of winter grower meetings explaining the results of the previous crop and discussing the problems of the future crop. They also have an annual meeting in May. They are very informative and quite well attended.

At one of these, which I recently attended, General Manager Bond discussed a number of very pertinent points as it related to growers:

Leaf production
-1980 - 55,543 growers producing 1.184 m pounds of which 5,075 growers (9%) produced 39% of crop. 1991 - 41,389 growers producing 890 m pounds of which 4,225 growers (10%) produced 51% of crop, i.e. fewer and larger growers. He discussed the costs of production and the great need to reduce them to compete with exports from other countries

-Unmanufactured leaf imports (January - December) - 1988 140.3 m; 1989 98.5m; 1990 112.4m; 1991 136.83 m pounds. 1992 may exceed 1991. Principal flue-cured importers to the USA: Brazil 61.1%, Argentina 11.4%, Canada 10.4%, Phillipines 3.7%, Zimbabwe 2.6%. Brazil, Argentina, Zimbabwe are increasing production markedly in 1992.

Prices of B3K/B4K imports-Brazil $2.80-290-US Price $3.00
Prices of X4F/X5F imports-Brazil $2.58 US Price $2.78

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Prices of P4F/P5F imports-Brazil $2.30-2350-US $2.70

He intimated that the weight loss in the industry is far too high.

-Effect of leaf on cigarettes - Buying intentions in 1992 of domestic manufacturers were only up 3%, yet the increase of flue cured leaf imports correlates directly with the increase of cigarette exports. Price?

Bond showed also a direct and projected relationship between the % market share of generic cigarettes with the increase of leaf imports. Price?

The inference of these remarks is very clear - the need for improved management by growers, leaf prices remaining around present levels or not increasing markedly to compete with overseas producers, and reducing costs whenever possible. But are the domestic companies steadily moving to the acceptance of even poorer quality leaf, by actions taken (additives, etc.) in the manufacturing process. Will the leaf exporters lose out in the long run, a point to which I referred in the probable increased use of once over/last over harvesters in S&H Report No. 4, 1991, page 7. Will the domestic companies accept mixed plant position for cost reasons?

Flue-Cured Quotas - As previously stated the effective quota for 1992 is 899 million pounds with a support price of $1.56 per pound. In 1991 the support price was $1.528 but the season average price for gross sales was $1.725/pound.

In the flue-cured tobacco referendum, January 6-9, 98.5% of growers voted to continue the acreage-poundage marketing quotas and price supports for the 1992, 1993, 1994 crops.

Pesticides - The USDA reports that there are about half of the pesticide products registered today compared with three years ago. This is due to manufacturers not wanting to generate toxicological data to meet the needs of the 1988 amendments of FIFRA, because of costs (single active ingredient $5-10 million) (South East Farm Press, January 1). This is also affecting tobacco. EPA is also issuing stricter regulations governing the application of pesticides in the field as from the season 1992.

EPA eased the restriction on the use of EBDC fungicides (N&O, February 14 (S)). This did not really affect tobacco, since mancozeb is still available.

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particularly for blue mold. The risks of breakdown products of the EBDC's, principally to Ethylene Thiourca, as they relate to cancer, were not considered a major threat, as they were previously.

I listed the 1991 maleic hydrazide residue figures on flue-cured tobacco by belt in S&H Report No. 4, 1991, page 8. I confirm that a major European buyer refused to buy any Type 14 leaf grown in Georgia and Florida in 1991, because of excessive MH residues. This is a good sign (SE Farm Press, January 15 (S)).

Storage Insects - I referred to the tolerance/resistance of the cigarette beetle to Phostoxin/Methoprene in S&H Report No. 4, page 8. At a meeting of the TAUS Insect Control Committee on February 12th, this was basically confirmed. In the case of methoprene, levels of resistance have been related primarily to laboratory selected populations, as opposed to field populations. PM were particularly adamant that problems have arisen because of poor application techniques for both methoprene and Phostoxin. For methoprene it is essential to keep the 5 ppm +/- 0.2 covering all lamina. With phostoxin they have developed a standardized procedure throughout the world. This indicates a need to have 200 ppm in storage areas and within the tobacco for 48 hours minimum (i.e. 16 gm for 1000 square feet). If tests do not show this, more gas must be put in.

It was agreed that it is difficult to develop new strategies against the cigarette beetle, with only two chemicals available. It is understood from RJR Benezet that data on tralomethrin has been submitted to the EPA. It was noted that Methyl Bromide use will be cancelled in North Carolina in January 1993. I will send a report on the meeting shortly.

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3. LEGISLATION

1. Federal

The Congress continues to be in a complete state of confusion with an ongoing battle between Democrats, Republicans, and the Administration in an election year. Politicians are beating drums for campaign purposes. The principal item on the agenda is the budget and with it, attempts to recover from the recession. In a sense, this aids the tobacco industry and the many bills, which have been submitted during the 102nd Congress. There is no time to discuss them and even less money to do anything about them. President Bush has stated that he regrets agreeing to increase taxes in 1991, so obviously he will not allow increases in 1992. The TI will continue to monitor actions in the Senate and House and the only fear, which they have, is that a proposal could be tacked on to another bill and passed very quickly.

(a) Taxes

There is a very little likelihood of any Federal excise tax increases in this Congress. Health Care is the second most discussed problem and there have been many proposals made. It is almost certain too that no action will be taken on this subject during this Congress. Nevertheless it is pertinent to note that Rep. Joe Kennedy HR 3974, Rep. Bilirakis HR 5951, Rep. Gilman HR 4094, have submitted bills related to Health Care and to pay for them through increased taxes on tobacco, alcohol and so on.

Sen. Kennedy S1944 and Rep. Waxman HR 3635 bills on "Health Promotion and Disease Prevention Act of 1991" have passed both houses. They would aim to educate and counsel women and minorities in the alleged health risks concerning tobacco use and smoking cessation techniques. The bills are now in committee to reconcile differences in the legislation. One presumes that, if the costs are beyond budget, the President will veto the legislation.

Both Kennedys have submitted bills in the Senate and House on "Medicaid Federalization Act of 1991" to allow federal take-over of medicaid programs for poor people. Excise taxes on tobacco, alcohol, gasoline and so on would be needed. The Steelman Commission advising on Social Security recommended tobacco tax increases to fund health care reform. None of these proposals will go anywhere.

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(b) Advertising

The very controversial S1088 Act of Sen. Kennedy has been placed on the Senate calendar, but it is somewhat doubtful whether this bill will be discussed. Again it involves considerable expenditure of money. All the anti-tobacco forces, including the Coalition on Smoking and Health, are obviously promoting it. Interestingly, Rep. Waxman has not submitted a companion bill in the House and may unlikely do so.

There is obviously considerable support from anti-tobacco forces for banning advertising (as noted pages), but it would look as if any action will be delayed until the 103rd Congress.

(c) Indoor Air Quality

As stated previously S455 passed the Senate but Rep. Joe Kennedy's HR 1066 is still bogged down in three House committees.

Two companion bills (to some degree) Sen. Kennedy S1622 and Rep. Ford HR 3160, which would require OSHA to issue final safety and health standards on Indoor Air Quality no later than December 31, 1993, is still having hearings (Indoor Air Review, December 1991) - another occurred on March 5th. The Administrator of OSHA has stated that reform will take place in due course but surely this will occur after they have reviewed information on Occupational Exposure to Indoor Air Pollutants, now in progress.

The President proposed a 90-day moratorium on new regulations (WSJ, January 20). He is worried over the costs of implementing the 1990 Clean Air Act, already approved, said to be $25 billion a year. Vice President Quayle's Committee on Competitiveness is particularly interested in this as it affects business. So once again, one can presume that not too much action will be taken on Indoor Air Quality if large sums of money are involved.

(d) Product liability

As stated in S&H Report No. 4, 1991, pp 10/11, VP Quayle's Committee on Competitiveness wishes some changes on product liability within the judicial system. Sen. Kasten's S640 and Rep. Rowland's HR 3030 bills are still in limbo and it looks as if no action will take place in this Congress.

(e) Miscellaneous

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Sen. Bingaman S2298 and Rep. Synar HR 4350 have just proposed bills entitled "Tobacco and Nicotine Health and Safety Act", which are intended to place tobacco under the control of the Food and Drug Administration. These are extremely important for the industry and need to be watched.

Bingaman S2191 and an equivalent House bill have been proposed too, namely "Healthy Students/Healthy Schools Act", anti-tobacco bills. It is incredible the number of bills opposed to tobacco. Fortunately, they do not seem to progress.

While the President has asked for a moratorium on regulating eight broad areas, he was quick to push the need for genetically engineered plants and microorganisms to reduce lengthy safety reviews on them. He felt that this was one area that the US is well ahead of the world.

In October 1991 the White House took no action on Secretary of Health Sullivan's request for an order banning smoking throughout federal offices. This has been raised again by the Coalition on Smoking and Health. Since then, Sam Skinner, an anti-smoker, has replaced Sununu as Chief of Staff. A second draft is being reviewed by the Office of Management and Budget (Legal Times, February 3, Government Executive, February 1992). It will be interesting to see what action is taken.

B. STATE

The Tobacco Institute produce a weekly review of State and Local legislation, which I receive. It is very detailed and much of it does not seem to have relevance to the UK. Therefore, I attempt to review the more important items.

The TI has updated reviews (S) of:

-State Cigarette Excise Tax Rates as of January 1, 1992
-State Smoking Restriction Laws, January 1992
-States restricting cigarette and/or tobacco product vending machines

(a) Taxes

30 states have already filed increased tax bills for 1992. Perhaps 8-10 may pass something. It is relevant to note that, with considerable increases of tax in states e.g Oklahoma, California, and localities, tax collections have actually declined. With a continuing

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reduction in smoking levels, this situation could escalate.

There was an interesting paper, "The Effect of State Cigarette Tax Increases on Cigarette Sales, 1955-1988" by Dan E. Peterson et al, AJPH, January 1992 (S), which seems to support the notion that state tax increases are effective in reducing smoking and that the larger the tax increase, the larger the drop in cigarette smoking. However, restricting smoking in public places are correlated in this regard with prices. Increased taxes has also a distributional effect related to income, and lower income smokers may forego food, shelter and health care to fulfill their smoking habits.

Earmarking excise taxes for specific purposes, e.g. Health Care, has not been all that successful to date, though there are bills filed in 27 states for 1992 already.

(b) Smoking restrictions and bans

There seems to be less action in carrying this out than previously and it is reflected more at the local level. Only five states passed legislation in 1991, but again 19 states are proposing bills to ban or restrict smoking in 1992. Only one state has pre-empted any local control bill (Nevada). Obviously the TI is very concerned that places where smoking is allowed in workplaces should not be banned.

(c) Employment Discrimination

The TI is actively encouraging the passage of State bills to prohibit employment discrimination. 22 states now have this in place and 24 states have bills pending in 1992.

(d) Advertising bans and restrictions

Alaska and Illinois have restrictions at point of sale and Texas and Utah on tobacco signs. Bills are pending in 17 states in 1992.

(e) Indoor Air Quality

Little or no action has taken place to date. Most bills (8 states 1992) have ongoing studies relating to ASHRAE standards which will be brought back to legislatures. It is doubtful if any bills will pass in 1992.

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(f) Packaging

Most states have Public Interest Research Groups (PIRG) attached to universities. Such a group has drafted model language for packaging in Massachusetts. Packaging has to be environmentally acceptable. 19 states in 1992 are studying packaging restrictions and possible taxation if standards are not met. Florida is reviewing its own legislation, which is supposed to go into effect October 1, 1992.

"Going for the Green", a review of recycling and degradable packaging, was published in Money in September 1991. There are a number of books out on the subject: "The Green Consumer", J. Makover, Penguin; "Clean and Green", A. Berthold-Bond, Ceres Press; and even a Green Market-Alert newsletter. There is a great deal of muddle since few environmental terms on products have strict legal definitions. Indeed a coalition of food processors, packagers, and advertisers in California have filed a lawsuit in federal court asking it to define recyclable, biodegradable and ozone friendly (WSJ, February 24).

AdAge has discussed green labelling in some detail in recent issues and is active in the area in order to make sense of such labelling.

RJR have a campaign emphasizing environmental courtesy at the consumer level and a litter awareness programme (Tobacco Reporter, January 1992).

Massachusetts may have an initiative on packaging to be voted on in November.

(g) Sampling bans and restrictions

The TI is particularly active in this area for obvious reasons. Three sampling bills were passed, Arkansas, California, and Iowa, in 1991 mainly related to youth, and bills have been filed in 19 states in 1992.

(h) Miscellaneous

Little or no action has been taken in states on non-smoker insurance discounts, fire-safe cigarettes, ingredients disclosure, tobacco on death certificates, divestment of tobacco stocks, toxic chemical warning legislation.

The TI are supporting any actions to limit smoking above the age of 18.

As a result of Proposition 99 and the voter approval of

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a 25c/pack increase on cigarettes in 1988, California has taken a major lead in cutting smoking. The tax raises $700 m a year of which $80 m is earmarked for the anti-smoking habit campaign. But the Governor wants to eliminate funding for anti-smoking activities despite a 17% reduction in the number of smokers over three years. He wishes it to be used for Health Care (WSJ, January 24). Anti-tobacco forces in California feel that their actions have had a dramatic effect nationwide (LA Times, January 30).

NA Rigotti et al in the "No-smoking laws in the United States - an analysis of state and city actions to limit smoking in public places and workplaces", JAMA, December, noted that no smoking laws are more widespread than previously appreciated.

4. LITIGATION

(a) Cipollone versus Liggett, PM, Lorillard

Oral arguments were presented to the Supreme Court on January 13, 1992. The press coverage has continued to be large, some of which has been to PAS. Perhaps the most interesting comments have been made by M.I. Cohen and K.M. Metcalf of Bernstein Research (S). They believe that the court will not fully accept the plaintiff's main argument that the industry failed adequately to inform consumers of the dangers of smoking. They also consider that a compromise decision will be fashioned, perhaps providing protection against straight forward failure-to-warn claims, but leaving open a possible cause of action for misrepresentation or omission. They did not fully address the pre-emption issue and States Rights.

Tribe, for the plaintiff, contended that the federal law did not give the companies ironclad guarantees that, as far as the states are concerned, they could do no wrong. Farr, for the defendants, countered that Congress unmistakably barred the states from regulating the companies through personal injury lawsuits, that accuse them of misleading advertising or concealing the dangers of smoking. In recent times, the Supreme Course has tended to side with states rights. This, of course, is a vital point, and as has been said before, affects many businesses, other than tobacco.

Other people to whom I have spoken appear optimistic for the industry. Some think that Thomas, the newly elected justice, may be a swing vote, particularly as he worked for Monsanto in his early years and has therefore had some affiliation with business interests. If the plaintiff loses the case, he could return to

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court based on a risk/utility defense. It is thought that he would only do this if the ruling was a somewhat mixed one. Edell, the plaintiff's lawyer, has about 6-7 cases dating back to 1984 and the firm to which he belongs has not received any money for these cases. He has not been allowed to take on any new cases!!!

An extremely good review of the case is contained in "Tobacco Liability and Public Health Policy", L.O. Gostin, et al, JAMA, December 11 (S).

Cohen and Metcalf express confidence that the ruling will not engender long-term financial difficulties for the tobacco industry and therefore, highly recommend PM as a stock, and RJR, strong investment appeal.

The majority of litigation cases and cases on appeal against the industry await the Cipollone ruling. Recently Wilkes vs. American, set for trial on June 1, will now also await the ruling.

(b) Gilboy versus American, RJR, Lorillard

Discovery is scheduled for late 1992. No trial date is set.

(c) Hulin versus American and 13 Asbestos Manufacturers

The largest consolidated trial in US History involving 14 defendants and more than 8,500 plaintiffs, who allege exposure to asbestos fibers while working in steel mills and shipyards started on March 9 (N&O, March 9). This case, therefore, is in limbo, until this trial has been completed.

(d) Horton versus American

American has replied to plaintiff's briefs stating that "Mississippi law precludes a new trial in cases where no monetary damage awards are made or without a demonstration that the jury or trier of the facts was influenced by bias, prejudice or passion, or that the damages awarded were contrary to the overwhelming weight of credible evidence". They assert too that the risk/utility argument is not the test in Mississippi for determining whether a product is defective and unreasonably dangerous. The standard under local law is the "consumer expectations test."

(e) Ieradi versus Lorillard, Hollingsworth and Vose

This case dealing with smoking Kent cigarettes with the micronite filter was ruled in favor of the defendant.

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but there are now about six cases, which are similar, one of which, Lesnick, was entered on December 14th.

(f) Haines versus TI, RJR, Liggett, Lorillard, PM

Judge Sorokin (of the Cipollone case) overruled a magistrate's opinion and ordered documents held by the Council for Tobacco Research to be turned over to the court (N&O, February 9 (S), WSJ, February 10). It is argued that certain documents linking smoking to disease was diverted into a secret "special projects" file. The industry had always stated that the council was an independent research body, that would investigate the supposed hazards of tobacco and report those findings to the public. I understand that this is a very touchy subject, which we need to follow closely.

(g) Woodruff vs RJR

Louisiana 1991 alleging failure to warn the plaintiff. There is a considerable amount of discovery taking place with the plaintiff.

(h) Environmental Tobacco Smoke

The Kuppers versus RJR case has changed. The supposed ETS problem associated with their child, together with the mother, has been dropped. The lung cancer of the father is now the main issue and the case may go to trial in April or May.

Shook, Hardy and Bacon filed briefs on behalf of the defendants on March 4 against Broin in her ETS case on behalf of flight attendants. They have requested a motion to cancel the case. The plaintiffs will react in the spring.

There have been a number of cases arising from divorce suits in which a judge has banned either the ex-wife or husband from smoking in front of the children as part of the custody agreement (Massachusetts/Illinois).

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5. HEALTH

(a) General

Health Care, as stated on many occasions, continues to be a major discussion by politicians. Millions of Americans have no medical coverage and costs are out of control. Employers' health care costs rose by 12.1% nationwide in 1991 to $,3605 per employee, four times as fast as overall living costs. It is projected that the 1992 annual increase will be higher (New York Times, January 28).

The President outlined his plan on February 6th (WSJ, February 7), having already severely criticized the Democrats' plan, indicating that it would be costly and would restrict the medical choices of millions of workers (WSJ, January 10). Every conceivable medical group is in the act. There seems to be three broad approaches - a totally government-financed system; a private-public blend; and a collection of incremental steps designed to encourage businesses and consumers to buy private health coverage. Congress, for instance, had 30 health care proposals on the books in 1991 and more have emerged in 1992. Rationing health care in Oregon is having some success (Washington Post, march 3).

The Centers for Disease Control, in a 44 state survey, report that only 23% of Americans now smoke (1987 27%). This level varies from 17% in Utah to 29% in Kentucky and Michigan, with 28 states, 21-25%. On the other hand, the percentage of Americans overweight has increased by 2% since 1987 to around 23%. Exercise remains as inpopular as ever (N&O, February 29 (S)).

Surgeon-General Novella continues to push the fight against smoking but, while previously she said that smoking has been considered a personal decision, that only affects the smoker, passive smoking may now change this premise. She accepts the EPA analysis of ETS and quotes an estimate of 3,800 deaths per year from it (LA Times, January 12).

The American Journal of Public Health for January 1992 focused on smoking, considered to be the major preventable determinant of disease and death in the US. 434,000 deaths per annum are now attributed to smoking. There was an editorial "On the future of applied smoking research: is it up in smoke?", which particularly referred to the large NCI Community Intervention Trial for smoking cessation (COMMIT) now in progress, and the California Tobacco-Related Disease Research Programme. A national commitment to a broad programme of applied smoking research was advocated.

The NIH are proposing a plan for a 10 year $500 m study involving 140,000 women's health project (Science, November

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8), after criticism of lack of knowledge of women's health problems.

(b) Cancer

Lung cancer remains the number 1 cancer killer in the USA according to the American Cancer Society's latest estimates of cases, death and survival (Washington Post, February 18 (S)). On the other hand, the NCI report that lung cancer death rates among white males have levelled off and should start to decline in the mid-1990's. The NCI's monograph "Strategies to control tobacco use in the US: a blueprint for public health action in 1990's" states that lung cancer death rates among blacks and women are not expected to drop until after the year 2000 (JNCI, January 15, 1992). Of growing concern is involuntary exposure to tobacco smoke. About 53,000 deaths a year are attributable to passive smoke, including 4,000 for lung cancer (American Academy of Pediatrics). Where do these figures come from?

In recent months, there has been considerable criticism of cancer achievements, 20 years after the signing of the National Cancer Act. D.L. Davis, of the NRC of the National Academy of Sciences argues that research programmes have made spectacular advances in the advances of cancer biology, but these advances have not revolutionized treatments for the most common cancers (New York Times, December 15). On the other hand, S. Epstein states that the NCI and ACS are "fixated on diagnosis and treatment" to the disadvantage of "preventive" research, particularly on environmental causes, like toxins, and as a result are losing the war on cancer (Washington Post, February 16). Davis is extremely critical of Doll and Peto, who in their 1981 treatise of the causes of cancer, excluded cancer victims over 64 because of unreliability of data much to the latter's chagrin and opposition. There was an extremely good review by B. E. Henderson et al on "Toward the primary prevention of cancer" (Science, November 22, 1992 (S)) which included tobacco.

A more positive article "Running against cancer" (Time, March 8) discusses in detail the chances of survival for at least five years after diagnosis and treatment of various cancers. A number, prostate, breast, skin melanoma, thyroid, are in the 70-90% range, with lung and bronchus (13.1%) and pancreas (3.1%). These achievements have come much into focus with Paul Tsongas' (Democratic candidate for President) successful fight against lymphoma.

I have continued to send articles on Ames' research, showing that natural foods, that we eat, contain cancer-causing chemicals. This was even quoted in Investor's Business Daily, January 8 (S). But now P. Talalay, in Proceedings of the National Academy of Sciences, March 14, reports that sulforaphane in broccoli, and likely present in other

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crucifers, has powerful anti-cancer properties!!! The idea of adding cancer fighting additives to foods is discussed in some detail in Science News, February 15. Such antioxidants, BHA and BHT, have been added to foods since the 1950's at low doses. At high doses they may promote the development of malignancies. This action obviously calls into question the validity of the Delaney Clause.

I have sent forward the Sixth Annual Report on "Carcinogens 1991" US HSS National Toxicology Programme to PAS. In addition, LS Zahn reports on a meeting on "Biomonitoring and Susceptibility markers in human cancer: applications in molecular epidemiology and risk assessment" 1991 (S).

(c) Heart

Cardiovascular diseases remained the nation's leading cause of death in 1989. Nearly 1 million deaths occurred, "almost as many as all other causes of death combined". 55% of persons experiencing a myocardial infarction and 72% stroke, are 65 years of age or older. However, death rates are declining due to advances in medical treatment and healthier lifestyles in recent years (JAMA, January 15).

An important paper on "Passive Smoking and the risk of heart disease" by K. Steenland is contained in JAMA, January 1st, 1992 (S). In his conclusions, he states "that ETS exposure is likely to be much greater for heart disease than for lung cancer." This paper is therefore worth review.

Another interesting "risk" factor, height!!! Shorter men and women (5'7" or shorter) are 60% more likely to have a first heart attack than taller people. Just made it!! (Science News, November 23, 1991). Vitamin C, E, and beta carotene in the diet continue to be advocated to prevent heart disease. Smokers and diabetics have low levels of C&E and this could play a role in their higher heart disease rates (USA Today, January 13).

(d) Miscellaneous

Quitting smoking has been very much in the news during the past few months. Considerable emphasis and advertisement has been placed on nicotine patches, whose sales could reach $400 million (AdAge, January 27 (S)). "Nicoderm" was advertised on January 26 Football's Super Bowl after FDA approved it January 8th for Marion Merrell Dow. Ciba-Geigy's "Habitrol" had FDA approval in December. Their pharmaceutical division never told their agronomy division who sells products like "Prime-Plus" for use on tobacco!!! Elan Corporation/American Cynamid's "Prostep" was approved January 28 (Investor's Business Daily, January 29). Warner Lambert/Cygnus Therapeutic Systems await approval of "Nicotrol 16", but hope to launch it by June 1992. On

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January 8th, Lectec Corporation, with the University of Minnesota, announced an agreement for the development of a nicotine-free line of smoking products. On February 10, Dynagon, Inc. announced that it has filed an application with FDA to begin human clinical trials for its "NicErase", injectable, non-additive, non-nicotine compound.

The AMA in a press release on December 10th, 1991, state that nicotine skin patches hold new hope for people trying to quit smoking (based on a study in JAMA, December 11).

In the same issue of JAMA, a paper discussing physicians' smoking cessation advice, found that only about 50% of 2,710 smokers surveyed over 10 years were ever advised by their doctors to quit. These findings suggest that physicians still need to increase smoking cessation counseling to all patients, particularly adolescents and other young smokers, minorities and those with cigarette-related disease. This was also stressed in a separate commentary of this paper.

The AMA had a six page advertisement in the JAMA December 11th issue on their "Stop for Good" initiative (S).

In "Additive Drugs: the cigarette experience" T.C. Schelling (Science, January 24 (S)) noted that cigarettes are extremely addictive, but produce no impairment of any faculty. He discussed the use of "Nicorette" gum and even RJR's "Premier", as a means of quitting, but realizes the difficulties in so doing. Extremely worth reading.

Cigarette smoking has been linked to a wide range of ills, but a new study from Emory University in Atlanta indicates slower bone healing and regeneration by smokers. Smoke can reduce the amount of oxygen reaching body tissues, which in turn impairs the body's ability to make collagen, a protein used to form new bone (Science News, February 29).

6. FIRE-SAFE CIGARETTES

The "First Annual Report of Progress under the Fire-Safe Cigarette Act of 1990: December 21, 1990-December 20, 1991" has been sent forward to PAS. Copies of the minutes of the meetings of October 31, 1991 and January 24, 1992 have had a number of modifications and will be approved on April 16th, the next full meeting. I hope to obtain copies from the Consumer Product Safety Commission (CPSC) at that time. It would appear that there is considerable activity going on with TAG compared with the previous TSG three-year studies. There is also a great deal more conflict, particularly between the National Institute of Standards and Technology (NIST) and members of the Tobacco Industry.

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